



March 20, 2009

ENGROSSED SENATE BILL No. 478

DIGEST OF SB 478 (Updated March 17, 2009 9:10 am - DI 96)

Citations Affected: IC 6-8.1; IC 22-1; IC 22-3; IC 22-4.1.

Synopsis: Improper classification of workers. Provides for the sharing of information concerning the classification of individuals as independent contractors in the construction industry among the department of labor, the department of state revenue, the department of workforce development, and the worker's compensation board of Indiana. Provides that certain information pertaining to employee classification shared among the state agencies is confidential and may not be published or open to public inspection. Provides that an officer or employee of a state agency who knowingly or intentionally discloses confidential information concerning any suspected improper classification of an individual commits a Class A misdemeanor.

Effective: July 1, 2009.

**Kruse, Mishler, Tallian, Mrvan,
Charbonneau, Dillon**

(HOUSE SPONSORS — NIEZGODSKI, LEONARD, BELL, SOLIDAY)

January 14, 2009, read first time and referred to Committee on Pensions and Labor.

February 5, 2009, amended, reported favorably — Do Pass.

February 9, 2009, read second time, ordered engrossed.

February 10, 2009, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Labor and Employment.

March 19, 2009, reported — Do Pass.

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ES 478—LS 7557/DI 102+



March 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 478

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-8.1-3-21 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 21. (a) This section applies after December 31, 2009.**

4 **(b) As used in this section, "contractor" means:**

- 5 **(1) a sole proprietor;**
- 6 **(2) a partnership;**
- 7 **(3) a firm;**
- 8 **(4) a corporation;**
- 9 **(5) a limited liability company;**
- 10 **(6) an association; or**
- 11 **(7) another legal entity;**

12 **that engages in construction and is authorized by law to do**
13 **business in Indiana. The term includes a general contractor, a**
14 **subcontractor, and a lower tiered contractor. The term does not**
15 **include the state, the federal government, or a political subdivision.**

16 **(c) The department shall cooperate with the:**

- 17 **(1) department of labor created by IC 22-1-1-1;**

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(2) worker's compensation board of Indiana created by IC 22-3-1-1(a); and

(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

SECTION 2. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) This section applies after December 31, 2009.

(b) As used in this section, "contractor" means:

- (1) a sole proprietor;
- (2) a partnership;
- (3) a firm;
- (4) a corporation;
- (5) a limited liability company;
- (6) an association; or
- (7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department of labor shall cooperate with the:

- (1) department of workforce development established by IC 22-4.1-2-1;
- (2) department of state revenue established by IC 6-8.1-2-1; and
- (3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department of labor who

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1 knowingly or intentionally discloses information that is
2 confidential under this section commits a Class A misdemeanor.

3 SECTION 3. IC 22-3-1-5 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2009]: Sec. 5. (a) This section applies after December 31, 2009.

6 (b) As used in this section, "contractor" means:

- 7 (1) a sole proprietor;
- 8 (2) a partnership;
- 9 (3) a firm;
- 10 (4) a corporation;
- 11 (5) a limited liability company;
- 12 (6) an association; or
- 13 (7) another legal entity;

14 that engages in construction and is authorized by law to do
15 business in Indiana. The term includes a general contractor, a
16 subcontractor, and a lower tiered contractor. The term does not
17 include the state, the federal government, or a political subdivision.

18 (c) The worker's compensation board of Indiana shall cooperate
19 with the:

- 20 (1) department of state revenue established by IC 6-8.1-2-1;
- 21 (2) department of labor created by IC 22-1-1-1; and
- 22 (3) department of workforce development established by
23 IC 22-4.1-2-1;

24 by sharing information concerning any suspected improper
25 classification by a contractor of an individual as an independent
26 contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

27 (d) For purposes of IC 5-14-3-4, information shared under this
28 section is confidential, may not be published, and is not open to
29 public inspection.

30 (e) An officer or employee of the worker's compensation board
31 of Indiana who knowingly or intentionally discloses information
32 that is confidential under this section commits a Class A
33 misdemeanor.

34 SECTION 4. IC 22-4.1-4-4 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2009]: Sec. 4. (a) This section applies after December 31, 2009.

37 (b) As used in this section, "contractor" means:

- 38 (1) a sole proprietor;
- 39 (2) a partnership;
- 40 (3) a firm;
- 41 (4) a corporation;
- 42 (5) a limited liability company;

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1 (6) an association; or

2 (7) another legal entity;

3 that engages in construction and is authorized by law to do
4 business in Indiana. The term includes a general contractor, a
5 subcontractor, and a lower tiered contractor. The term does not
6 include the state, the federal government, or a political subdivision.

7 (c) The department shall cooperate with the:

8 (1) department of labor created by IC 22-1-1-1;

9 (2) department of state revenue established by IC 6-8.1-2-1;
10 and

11 (3) worker's compensation board of Indiana created by
12 IC 22-3-1-1(a);

13 by sharing information concerning any suspected improper
14 classification by a contractor of an individual as an independent
15 contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

16 (d) For purposes of IC 5-14-3-4, information shared under this
17 section is confidential, may not be published, and is not open to
18 public inspection.

19 (e) An officer or employee of the department who knowingly or
20 intentionally discloses information that is confidential under this
21 section commits a Class A misdemeanor.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 478, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 6, delete "employee" and insert "**individual**".

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor."

Page 2, line 34, delete "employee" and insert "**individual**".

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"(e) An officer or employee of the department of labor who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor."

Page 3, line 19, delete "employee" and insert "**individual**".

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"(e) An officer or employee of the worker's compensation board of Indiana who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor."

Page 4, line 4, delete "employee" and insert "**individual**".

Page 4, after line 8, begin a new paragraph and insert:

"(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor."

and when so amended that said bill do pass.

(Reference is to SB 478 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Senate Bill 478, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

NIEZGODSKI, Chair

Committee Vote: yeas 9, nays 0.

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